

CHARTER TOWNSHIP OF MONITOR
REGULAR PLANNING COMMISSION MEETING
August 14, 2018

The meeting was called to order by Chairman J. Bellor at 7:00 p.m.

The Pledge of Allegiance was recited by all present.

Members present: J. Bellor, D. Darland, J. Frank, C. Hoyle, T. Miller, B. Reder
Members absent: R. Campbell
Also present: R. Sheppard, Planning Attorney; P. Lippens, Planner

Motion by B. Reder seconded by J. Frank to adopt the agenda as updated and adding an additional public input period for residents present to voice their concerns.

Motion carried.

Motion by B. Reder seconded by J. Frank to approve the minutes of the July 10, 2018 regular meeting as presented.

Motion carried.

Public Input

Chairman J. Bellor opened first public comment session at 7:04 p.m.

John Leunberger of 3368 Fraser Road was the first to speak stating that windmills are a hazard to national defense. He continued, taking direct quotes from President Donald Trump's energy speech he delivered just 24 hour prior at a fundraiser in Utica, New York on August 13, 2018.

Brandon Krause of 4489 8 Mile Road commented that the McKenna & Associates wind energy recommendations he received and briefly looked over at the meeting this evening looks like spot zoning. The Planning Commission should protect every single resident. He inquired if anyone on the Planning Commission has received money personally or through an organization via a donation, contribution, or through a charitable event from DTE.

John Engler of 4400 Mackinaw Road discussed an email that he sent to Mr. Malkin which expressed his concern for the protection of residents in the agricultural zone who would also be adversely impacted by wind turbines. He continued commenting that there are no ordinances with regard to regulating the access roads for turbine developments.

Charles P. Campbell of 3342 Fraser Road offered additional information with regard to health concerns, his unfavorable view of spot zoning, and to direct a question to R. Sheppard, Attorney, asking if a Planning Commission member that is under review is disqualified from voting.

R. Sheppard answered that in his opinion the by-laws of the Planning Commission enables the Chairman to make that determination. If brought to his attention he can seek legal counsel and then the Planning Commission can vote on it.

Mark Suchy of 2185 E. N. Union Road read from MSU guidelines which cover conflict of interest. He asked that T. Miller remove himself from voting.

T. Miller defended his position and asked that Chairman J. Bellor maintain order in the court as required.

Richard (Rick) Rivard of 2910 Wheeler Road stated that there needs to be concern and recommendations for placement of turbines near oil wells, oil storage facilities and old coal mines. He provided a Consumers Energy map for viewing the locations of these oil wells and storage facilities.

Barbara Miller of 4649 David Ct. spoke in support of her husband and Planning Commission member T. Miller. She is for renewable energy and those that agree to disagree should be considered good democracy in action. All points of views should be encouraged as it is the job of the Planning Commission to listen to multiple perspectives. She continued stating that her husband, as an environmental advocate, has never received monetary compensation from any work he done as an environmentalist.

J. Bellor, Chairman attempted to maintain order throughout B. Miller's comments.

Mark Wahl of 1397 W. Linwood Road, a Bay County resident, asked everyone in attendance to be civil. He feels that there is a small amount of people that have a desire to have wind turbines and a majority that do not. He reflected on previous meetings of the Planning Commission and directed comment to T. Miller.

Several other residents took the time to speak publically to the Commissioners expressing their concerns over population in relation to the proposed turbine sites, spot zoning, adverse health effects, the proximity to the airport flight path and the perceived conflict of interest that many residents feel exists on the Planning Commission with one member, Terry Miller. The majority commented expressing their desire to revise the wind energy ordinance with the maximum restrictions.

Chairman J. Bellor closed the first public comment session at 7:32 p.m. and returned the commission to the regular order of business.

Items for Consideration

Alma Tire/Pending Lease: Salzburg Development LLC.

Parcel ID: 09-100-038-200-610-00 1221 E. Salzburg Avenue Auto Repair – (Major)

Request for Deferral of Two (2) Parking Spaces and Storage Container Consideration

P. Lippens, Planner, updated the commission on the additional review that is needed to complete the final site plan approval for Alma Tire. These items include the reduction of the greenbelt width, the approval of the landscaping, the deferral of parking spaces and the interpretation and determination of storage containers. In looking at the site plan it was determined that the partial paved area on the site would be best utilized for a driveway aisle and not for the placement of parking. The parking has been moved to an area that is currently graveled. Because the

applicant does not require large number of spaces it was proposed that two (2) parking spaces be deferred by the Planning Commission. Because of the two primary ordinance requirements, the storage containers that are to be used would technically be required to be screened from public view which is recommended in order for the site plan to be approved as proposed.

B. Reder questioned the motion made at the July 10, 2018 meeting which stated that there would be administrative approval of the site plan for Alma Tire.

P. Lippens stated that there was an effort made to approve administratively however there were additional requirements which would take Planning Commission approval.

T. Miller inquired as to how a one year temporary approval for the storage containers would be monitored.

P. Lippens believes that the storage containers could remain there permanently with the proper screening.

J. Frank offered support for the applicant and does not agree with many of the strict conditions as the applicant is moving into an existing building that has already had businesses operating out of that address in the past that never had to comply with these types of requirements.

K. Malkin, Supervisor does not believe we need to require the screening based on his interpretation of the ordinance and the type of storage units that will be used.

Motion by B. Reder seconded by J. Frank to approve the tire storage units without screening; to allow minimal planting of shrubs and trees to satisfy the landscaping requirement; and defer two (2) parking spaces.

Roll Call Vote:

Yes: Darland, Frank, Hoyle, Miller, Reder, Bellor

No: None

Absent: Campbell

Motion carried.

Motion by B. Reder supported by C. Hoyle to schedule the public hearings for the September 11, 2018 Planning Commission meeting for the following applicant: Joseph Mulders/Jam Ventures LLC. of 6008 Westside Saginaw Road for Site Plan and Special Use Approval – Storage Units.

Roll Call Vote:

Yes: Frank, Hoyle, Miller, Reder, Bellor, Darland,

No: None

Absent: Campbell

Motion carried.

Zoning Ordinance #66 – Wind Energy Conversion Systems

B. Reder stated that through his research and discussions with area residents he feels that it is important that the community be involved in the revisions of the wind energy ordinance.

B. Reder made a motion supported by D. Darland to appoint an advisory committee of six (6) community members to work with no more than three (3) planning commission members for a total of nine (9) to develop an agreeable revision to the wind energy ordinance. The community members will be balanced equally with three (3) advocates of wind, and three (3) anti-wind energy members. All members will be appointed by the Planning Commission.

Roll Call Vote:

Yes: Hoyle, Miller, Reder, Darland, Frank, Bellor

No: None

Absent: Campbell

Motion carried.

R. Sheppard, Attorney, has no issue with a sub-committee being formed but has reservations about the inappropriate delegation of authority from the Planning Commission since it is ultimately the Planning Commission's responsibility to provide the review and revision. A sub-committee can be involved to provide fact-finding and research to recommend proposals but anything that would be forwarded to the Monitor Township Board of Trustees would need to be authored by the Planning Commission in a public hearing forum with public input.

B. Reder read from the Michigan Planning Enabling Act 33 of 2008, Article II, 125.3817, Sec. 17 (2) which states: A planning commission may appoint an advisory committee whose members are not members of the planning commission.

R. Sheppard reiterated that the final crafted document would need to come back to the Planning Commission for approval and recommendation to the Board of Trustees.

T. Miller inquired as to if advocates of wind, including the union which provide jobs in wind energy, would be considered for a position on the committee.

J. Bellor, Chairman, feels that everyone's input is important in order to put the finest, workable wind ordinance together. The openings for the committee will be advertised for one week.

There was discussion regarding which Planning Commission members would be willing to serve on the committee.

J. Bellor asked each Commissioner in attendance if they would be willing to service on the fact-finding advisory committee and all verbally declined. Commissioner B. Reder stated that he would serve if no one else would. J. Bellor will reach out to absent member Commissioner R. Campbell.

R. Sheppard made a recommendation to post the notice of committee one time in the Bay City Times and that an application form will be developed with various questions.

Zoning Ordinance #66 – Accessory Building Graphic

D. DeGrow, Monitor Township Building Official, spoke in support of the modifications that the Planning Commission has made with regard to accessory buildings but feels that there should be

no restriction on the number of accessory buildings a resident is allowed. Size and setbacks would govern this. He also recommends a further revision to the wording in Section 3.27 (a) to allow for accessory buildings to be constructed in the side yard. This may be an error as it is customary to be restricted from building in the side yard setback.

P. Lippens, Planner, commented on the Accessory Building Graphic that was developed to see a visual of size comparisons of the recently amended accessory building ordinance.

J. Bellor asked that the Accessory Building Graphic be made available to the general public by uploading to the website.

Motion by T. Miller supported by B. Reder to acknowledge receipt of Reports.

Motion Carried.

Chairman J. Bellor opened second public comment session at 8:23 p.m.

B. Krause of 4489 8 Mile Road continued to question T. Miller regarding his Committee Chair status on the Lone Tree Council. He asked that T. Miller recuse himself from voting on this particular issue.

T. Miller also added that he is also the Vice-Chair of the Michigan Environmental Council and that it would be a violation of his position on the Planning Commission to resign.

J. Bellor stated that as Chairman he has no authority to remove a member. The Township Board is the only governing body that can appoint or remove a Planning Commission member.

Jenny Reder of 4675 Mackinaw Road stated that DTE is also actively looking for solar energy sites.

J. Bellor stated that a solar energy ordinance is in the process of being developed.

D. Darland made a motion seconded by B. Reder to establish a fact-finding advisory committee for solar energy to be created upon completion of the wind energy ordinance.

Roll Call Vote:

Yes: Reder, Darland, Frank, Hoyle, Bellor

No: Miller, Frank

Absent: Campbell

Motion carried.

Additional members of the community, including previous speakers from the first public input session, spoke in opposition of wind turbine development in Monitor Township. There were also concerns regarding the placement of turbines near gas pipelines and coal mines. There were references made to recent FOIA requests of emails and how the pro and con committee selection process will work.

J. Bellor stated he would be consulting with the township attorney to make sure the selection process is fair, true and accurate.

P. Lippens explained various aspects of his August 13, 2018 wind energy memo.

C. P. Campbell of 3342 Fraser Road inquired if the Planning Commission knew what their legal rights are. He suggests that they become well-versed on what are allowable actions. He suggests the same to K. Malkin, Supervisor.

Mark Wahl of 1397 W. Linwood Road, a Bay County resident, stated to the best of his knowledge DTE has never filed suit against a township over a restrictive wind ordinance. He continued, stating that Almer Township's court ruling today was in favor of the township ordinance.

Tara Kloska of 3127 Summerhill St. discussed her recent FOIA request of the Supervisor, K. Malkin. She feels that it is illegal for the Planning Commission members to use a personal email for correspondence. She continued stating that 85% of the advocate letters she received as part of her request were signed by individuals that live in the Westwood Trailer Park. She is deeply disappointed with the Planning Commission members and believes that they have been dragging on the revisions for too long and they are having no idea what is good or bad about wind energy.

K. Malkin, Supervisor spoke following up on comments from the residents. He suggests to the Commissioners that advisory committee appointments should not include anyone that has signed a lease with DTE. In defense of his recommendations, included were suggestions from emails he received from residents. When he noted the 2000' feet setback from the tower, he did mean the tower of the tip. The remainder of the three main points would be 45 decibel levels Lmax, and zero (0) shadow flicker.

There was discussion on the notification process for meetings and public hearings. P. Lippens stated that all notices have been legally made in accordance with township policies.

Requiring cash up front for decommissioning was discussed. J. Frank was thanked by the public for his notification to them regarding the wind turbine developments. They also feel J. Frank should be a part of the advisory committee.

J. Frank commented as a citizen from Monitor Township about the coal mines and the location of the open shafts.

J. Bellor asked that J. Frank share the mapped locations with the Planning Commission and advisory committee for future discussion.

There was discussion on what information was used to develop the existing ordinance and what current expert reference material is being utilized to make the revisions.

Communications

The Commissioners acknowledged receipt of Communications.

**Motion by C. Hoyle supported by B. Reder to adjourn.
Motion carried.**

Meeting was adjourned at 9:13 p.m.

Respectfully submitted,

Dan Darland
Secretary

DD/blfp